

1                   **TITLE III—INSURANCE**  
2           **Subtitle A—State Regulation of**  
3                   **Insurance**

4   **SEC. 301. FUNCTIONAL REGULATION OF INSURANCE.**

5           The insurance activities of any person (including a  
6   national bank exercising its power to act as agent under  
7   the eleventh undesignated paragraph of section 13 of the  
8   Federal Reserve Act) shall be functionally regulated by the  
9   States, subject to section 104.

10   **SEC. 302. INSURANCE UNDERWRITING IN NATIONAL**  
11                   **BANKS.**

12           (a) IN GENERAL.—Except as provided in section 303,  
13   a national bank and the subsidiaries of a national bank  
14   may not provide insurance in a State as principal except  
15   that this prohibition shall not apply to authorized prod-  
16   ucts.

17           (b) AUTHORIZED PRODUCTS.—For the purposes of  
18   this section, a product is authorized if—

19                   (1) as of January 1, 1999, the Comptroller of  
20   the Currency had determined in writing that na-  
21   tional banks may provide such product as principal,  
22   or national banks were in fact lawfully providing  
23   such product as principal;

24                   (2) no court of relevant jurisdiction had, by  
25   final judgment, overturned a determination of the

1 Comptroller of the Currency that national banks  
2 may provide such product as principal; and

3 (3) the product is not title insurance, or an an-  
4 nuity contract the income of which is subject to tax  
5 treatment under section 72 of the Internal Revenue  
6 Code of 1986.

7 (c) DEFINITION.—For purposes of this section, the  
8 term “insurance” means—

9 (1) any product regulated as insurance as of  
10 January 1, 1999, in accordance with the relevant  
11 State insurance law, in the State in which the prod-  
12 uct is provided;

13 (2) any product first offered after January 1,  
14 1999, which—

15 (A) a State insurance regulator determines  
16 shall be regulated as insurance in the State in  
17 which the product is provided because the prod-  
18 uct insures, guarantees, or indemnifies against  
19 liability, loss of life, loss of health, or loss  
20 through damage to or destruction of property,  
21 including, but not limited to, surety bonds, life  
22 insurance, health insurance, title insurance, and  
23 property and casualty insurance (such as pri-  
24 vate passenger or commercial automobile,  
25 homeowners, mortgage, commercial multiperil,

1           general liability, professional liability, workers'  
2           compensation, fire and allied lines, farm owners  
3           multiperil, aircraft, fidelity, surety, medical  
4           malpractice, ocean marine, inland marine, and  
5           boiler and machinery insurance); and

6           (B) is not a product or service of a bank  
7           that is—

8                   (i) a deposit product;

9                   (ii) a loan, discount, letter of credit,  
10           or other extension of credit;

11                   (iii) a trust or other fiduciary service;

12                   (iv) a qualified financial contract (as  
13           defined in or determined pursuant to sec-  
14           tion 11(e)(8)(D)(i) of the Federal Deposit  
15           Insurance Act); or

16                   (v) a financial guaranty, except that  
17           this subparagraph (B) shall not apply to a  
18           product that includes an insurance compo-  
19           nent such that if the product is offered or  
20           proposed to be offered by the bank as  
21           principal—

22                   (I) it would be treated as a life  
23           insurance contract under section 7702  
24           of the Internal Revenue Code of 1986;  
25           or

1 (II) in the event that the product  
2 is not a letter of credit or other simi-  
3 lar extension of credit, a qualified fi-  
4 nancial contract, or a financial guar-  
5 anty, it would qualify for treatment  
6 for losses incurred with respect to  
7 such product under section 832(b)(5)  
8 of the Internal Revenue Code of 1986,  
9 if the bank were subject to tax as an  
10 insurance company under section 831  
11 of that Code; or

12 (3) any annuity contract, the income on which  
13 is subject to tax treatment under section 72 of the  
14 Internal Revenue Code of 1986.

15 **SEC. 303. TITLE INSURANCE ACTIVITIES OF NATIONAL**  
16 **BANKS AND THEIR AFFILIATES.**

17 (a) GENERAL PROHIBITION.—No national bank may  
18 engage in any activity involving the underwriting or sale  
19 of title insurance.

20 (b) NONDISCRIMINATION PARITY EXCEPTION.—

21 (1) IN GENERAL.—Notwithstanding any other  
22 provision of law (including section 104 of this Act),  
23 in the case of any State in which banks organized  
24 under the laws of such State are authorized to sell  
25 title insurance as agency, a national bank and a sub-

1 subsidiary of a national bank may sell title insurance as  
2 agent in such State, but only in the same manner,  
3 to the same extent, and under the same restrictions  
4 as such State banks are authorized to sell title in-  
5 surance as agent in such State.

6 (2) COORDINATION WITH “WILDCARD” PROVI-  
7 SION.—A State law which authorizes State banks to  
8 engage in any activities in such State in which a na-  
9 tional bank may engage shall not be treated as a  
10 statute which authorizes State banks to sell title in-  
11 surance as agent, for purposes of paragraph (1).

12 (c) GRANDFATHERING WITH CONSISTENT REGULA-  
13 TION.—

14 (1) IN GENERAL.—Except as provided in para-  
15 graphs (2) and (3) and notwithstanding subsections  
16 (a) and (b), a national bank, and a subsidiary of a  
17 national bank, may conduct title insurance activities  
18 which such national bank or subsidiary was actively  
19 and lawfully conducting before the date of the enact-  
20 ment of this Act.

21 (2) INSURANCE AFFILIATE.—In the case of a  
22 national bank which has an affiliate which provides  
23 insurance as principal and is not a subsidiary of the  
24 bank, the national bank and any subsidiary of the

1 national bank may not engage in the underwriting of  
2 title insurance pursuant to paragraph (1).

3 (3) INSURANCE SUBSIDIARY.—In the case of a  
4 national bank which has a subsidiary which provides  
5 insurance as principal and has no affiliate other  
6 than a subsidiary which provides insurance as prin-  
7 cipal, the national bank may not directly engage in  
8 any activity involving the underwriting of title insur-  
9 ance.

10 (d) “AFFILIATE” AND “SUBSIDIARY” DEFINED.—  
11 For purposes of this section, the terms “affiliate” and  
12 “subsidiary” have the same meanings as in section 2 of  
13 the Bank Holding Company Act of 1956.

14 (e) RULE OF CONSTRUCTION.—No provision of this  
15 Act or any other Federal law shall be construed as super-  
16 seding or affecting a State law which was in effect before  
17 the date of the enactment of this Act and which prohibits  
18 title insurance from being offered, provided, or sold in  
19 such State, or from being underwritten with respect to  
20 real property in such State, by any person whatsoever.

21 **SEC. 304. EXPEDITED AND EQUALIZED DISPUTE RESOLU-**  
22 **TION FOR FEDERAL REGULATORS.**

23 (a) FILING IN COURT OF APPEALS.—In the case of  
24 a regulatory conflict between a State insurance regulator  
25 and a Federal regulator regarding insurance issues, in-

1 cluding whether a State law, rule, regulation, order, or in-  
2 terpretation regarding any insurance sales or solicitation  
3 activity is properly treated as preempted under Federal  
4 law, either regulator may seek expedited judicial review  
5 of such determination by the United States Court of Ap-  
6 peals for the circuit in which the State is located or in  
7 the United States Court of Appeals for the District of Co-  
8 lumbia Circuit by filing a petition for review in such court.

9 (b) EXPEDITED REVIEW.—The United States Court  
10 of Appeals in which a petition for review is filed in accord-  
11 ance with subsection (a) shall complete all action on such  
12 petition, including rendering a judgment, before the end  
13 of the 60-day period beginning on the date on which such  
14 petition is filed, unless all parties to such proceeding agree  
15 to any extension of such period.

16 (c) SUPREME COURT REVIEW.—Any request for cer-  
17 tiorari to the Supreme Court of the United States of any  
18 judgment of a United States Court of Appeals with respect  
19 to a petition for review under this section shall be filed  
20 with the Supreme Court of the United States as soon as  
21 practicable after such judgment is issued.

22 (d) STATUTE OF LIMITATION.—No petition may be  
23 filed under this section challenging an order, ruling, deter-  
24 mination, or other action of a Federal regulator or State  
25 insurance regulator after the later of—

1           (1) the end of the 12-month period beginning  
2           on the date on which the first public notice is made  
3           of such order, ruling, determination or other action  
4           in its final form; or

5           (2) the end of the 6-month period beginning on  
6           the date on which such order, ruling, determination,  
7           or other action takes effect.

8           (e) STANDARD OF REVIEW.—The court shall decide  
9           a petition filed under this section based on its review on  
10          the merits of all questions presented under State and Fed-  
11          eral law, including the nature of the product or activity  
12          and the history and purpose of its regulation under State  
13          and Federal law, without unequal deference.

14       **SEC. 305. INSURANCE CUSTOMER PROTECTIONS.**

15          The Federal Deposit Insurance Act (12 U.S.C. 1811  
16          et seq.) is amended by adding inserting after section 45,  
17          as added by section 112(b) of this Act, the following new  
18          section:

19       **“SEC. 46. INSURANCE CUSTOMER PROTECTIONS.**

20          “(a) REGULATIONS REQUIRED.—

21               “(1) IN GENERAL.—The Federal banking agen-  
22          cies shall prescribe and publish in final form, before  
23          the end of the 1-year period beginning on the date  
24          of enactment of the Financial Services Moderniza-  
25          tion Act of 1999, customer protection regulations



1 (which the agencies jointly determine to be appro-  
2 priate) that—

3 “(A) apply to retail sales practices, solici-  
4 tations, advertising, or offers of any insurance  
5 product by any insured depository institution or  
6 any person that is engaged in such activities at  
7 an office of the institution or on behalf of the  
8 institution; and

9 “(B) are consistent with the requirements  
10 of this Act and provide such additional protec-  
11 tions for customers to whom such sales, solici-  
12 tations, advertising, or offers are directed.

13 “(2) APPLICABILITY TO SUBSIDIARIES.—The  
14 regulations prescribed pursuant to paragraph (1)  
15 shall extend such protections to any subsidiaries of  
16 an insured depository institution, as deemed appro-  
17 priate by the regulators referred to in paragraph (3),  
18 where such extension is determined to be necessary  
19 to ensure the consumer protections provided by this  
20 section.

21 “(3) CONSULTATION AND JOINT REGULA-  
22 TIONS.—The Federal banking agencies shall consult  
23 with each other and prescribe joint regulations pur-  
24 suant to paragraph (1), after consultation with the  
25 State insurance regulators, as appropriate.

1       “(b) SALES PRACTICES.—The regulations prescribed  
2 pursuant to subsection (a) shall include antitying and  
3 anticoercion rules applicable to the sale of insurance prod-  
4 ucts that prohibit an insured depository institution from  
5 engaging in any practice that would lead a customer to  
6 believe an extension of credit, in violation of section 106(b)  
7 of the Bank Holding Company Act Amendments of 1970,  
8 is conditional upon—

9               “(1) the purchase of an insurance product from  
10       the institution or any of its affiliates; or

11              “(2) an agreement by the consumer not to ob-  
12       tain, or a prohibition on the consumer from obtain-  
13       ing, an insurance product from an unaffiliated enti-  
14       ty.

15       “(c) DISCLOSURES AND ADVERTISING.—The regula-  
16 tions prescribed pursuant to subsection (a) shall include  
17 the following provisions relating to disclosures and adver-  
18 tising in connection with the initial purchase of an insur-  
19 ance product:

20              “(1) DISCLOSURES.—

21                      “(A) IN GENERAL.—Requirements that the  
22       following disclosures be made orally and in writ-  
23       ing before the completion of the initial sale and,  
24       in the case of clause (iii), at the time of applica-  
25       tion for an extension of credit:

1           “(i) UNINSURED STATUS.—As appro-  
2           priate, the product is not insured by the  
3           Federal Deposit Insurance Corporation,  
4           the United States Government, or the in-  
5           sured depository institution.

6           “(ii) INVESTMENT RISK.—In the case  
7           of a variable annuity or other insurance  
8           product which involves an investment risk,  
9           that there is an investment risk associated  
10          with the product, including possible loss of  
11          value.

12          “(iii) COERCION.—The approval of an  
13          extension of credit may not be conditioned  
14          on—

15                 “(I) the purchase of an insurance  
16                 product from the institution in which  
17                 the application for credit is pending or  
18                 any of affiliate of the institution; or

19                 “(II) an agreement by the con-  
20                 sumer not to obtain, or a prohibition  
21                 on the consumer from obtaining, an  
22                 insurance product from an unaffili-  
23                 ated entity.

24          “(B) MAKING DISCLOSURE READILY UN-  
25          DERSTANDABLE.—Regulations prescribed under

1           subparagraph (A) shall encourage the use of  
2           disclosure that is conspicuous, simple, direct,  
3           and readily understandable, such as the fol-  
4           lowing:

5                       “(i) ‘NOT FDIC—INSURED’.

6                       “(ii) ‘NOT GUARANTEED BY THE  
7           BANK’.

8                       “(iii) ‘MAY GO DOWN IN VALUE’.

9                       “(iv) ‘NOT INSURED BY ANY  
10          GOVERNMENT AGENCY’.

11                      “(C) LIMITATION.—Nothing in this para-  
12          graph requires the inclusion of the foregoing  
13          disclosures in advertisements of a general na-  
14          ture describing or listing the services or prod-  
15          ucts offered by an institution.

16                      “(D) MEANINGFUL DISCLOSURES.—Disclo-  
17          sures shall not be considered to be meaningfully  
18          provided under this paragraph if the institution  
19          or its representative states that disclosures re-  
20          quired by this subsection were available to the  
21          customer in printed material available for dis-  
22          tribution, where such printed material is not  
23          provided and such information is not orally dis-  
24          closed to the customer.

1           “(E) ADJUSTMENTS FOR ALTERNATIVE  
2           METHODS OF PURCHASE.—In prescribing the  
3           requirements under subparagraphs (A) and (F),  
4           necessary adjustments shall be made for pur-  
5           chase in person, by telephone, or by electronic  
6           media to provide for the most appropriate and  
7           complete form of disclosure and acknowledg-  
8           ments.

9           “(F) CONSUMER ACKNOWLEDGMENT.—A  
10          requirement that an insured depository institu-  
11          tion shall require any person selling an insur-  
12          ance product at any office of, or on behalf of,  
13          the institution to obtain, at the time a con-  
14          sumer receives the disclosures required under  
15          this paragraph or at the time of the initial pur-  
16          chase by the consumer of such product, an ac-  
17          knowledgment by such consumer of the receipt  
18          of the disclosure required under this subsection  
19          with respect to such product.

20          “(2) PROHIBITION ON MISREPRESENTA-  
21          TIONS.—A prohibition on any practice, or any adver-  
22          tising, at any office of, or on behalf of, the insured  
23          depository institution, or any subsidiary, as appro-  
24          priate, that could mislead any person or otherwise

1       cause a reasonable person to reach an erroneous be-  
2       lief with respect to—

3               “(A) the uninsured nature of any insur-  
4               ance product sold, or offered for sale, by the in-  
5               stitution or any subsidiary of the institution;

6               “(B) in the case of a variable annuity or  
7               insurance product that involves an investment  
8               risk, the investment risk associated with any  
9               such product; or

10              “(C) in the case of an institution or sub-  
11              sidiary at which insurance products are sold or  
12              offered for sale, the fact that—

13                      “(i) the approval of an extension of  
14                      credit to a customer by the institution or  
15                      subsidiary may not be conditioned on the  
16                      purchase of an insurance product by such  
17                      customer from the institution or sub-  
18                      sidiary; and

19                      “(ii) the customer is free to purchase  
20                      the insurance product from another source.

21       “(d) SEPARATION OF BANKING AND NONBANKING  
22       ACTIVITIES.—

23               “(1) REGULATIONS REQUIRED.—The regula-  
24               tions prescribed pursuant to subsection (a) shall in-  
25               clude such provisions as the Federal banking agen-

1       cies consider appropriate to ensure that the routine  
2       acceptance of deposits is kept, to the extent prac-  
3       ticable, physically segregated from insurance product  
4       activity.

5               “(2) REQUIREMENTS.—Regulations prescribed  
6       pursuant to paragraph (1) shall include the fol-  
7       lowing requirements:

8               “(A) SEPARATE SETTING.—A clear delin-  
9       eation of the setting in which, and the cir-  
10      cumstances under which, transactions involving  
11      insurance products should be conducted in a lo-  
12      cation physically segregated from an area where  
13      retail deposits are routinely accepted.

14              “(B) REFERRALS.—Standards that permit  
15      any person accepting deposits from the public  
16      in an area where such transactions are rou-  
17      tinely conducted in an insured depository insti-  
18      tution to refer a customer who seeks to pur-  
19      chase any insurance product to a qualified per-  
20      son who sells such product, only if the person  
21      making the referral receives no more than a  
22      one-time nominal fee of a fixed dollar amount  
23      for each referral that does not depend on  
24      whether the referral results in a transaction.

1                   “(C) QUALIFICATION AND LICENSING RE-  
2                   QUIREMENTS.—Standards prohibiting any in-  
3                   sured depository institution from permitting  
4                   any person to sell or offer for sale any insur-  
5                   ance product in any part of any office of the in-  
6                   stitution, or on behalf of the institution, unless  
7                   such person is appropriately qualified and li-  
8                   censed.

9                   “(e) DOMESTIC VIOLENCE DISCRIMINATION PROHI-  
10                  BITION.—

11                  “(1) IN GENERAL.—In the case of an applicant  
12                  for, or an insured under, any insurance product de-  
13                  scribed in paragraph (2), the status of the applicant  
14                  or insured as a victim of domestic violence, or as a  
15                  provider of services to victims of domestic violence,  
16                  shall not be considered as a criterion in any decision  
17                  with regard to insurance underwriting, pricing, re-  
18                  newal, or scope of coverage of insurance policies, or  
19                  payment of insurance claims, except as required or  
20                  expressly permitted under State law.

21                  “(2) SCOPE OF APPLICATION.—The prohibition  
22                  contained in paragraph (1) shall apply to any life or  
23                  health insurance product which is sold or offered for  
24                  sale, as principal, agent, or broker, by any insured  
25                  depository institution or any person who is engaged



1 in such activities at an office of the institution or on  
2 behalf of the institution.

3 “(3) DOMESTIC VIOLENCE DEFINED.—For pur-  
4 poses of this subsection, the term ‘domestic violence’  
5 means the occurrence of one or more of the following  
6 acts by a current or former family member, house-  
7 hold member, intimate partner, or caretaker:

8 “(A) Attempting to cause or causing or  
9 threatening another person physical harm, se-  
10 vere emotional distress, psychological trauma,  
11 rape, or sexual assault.

12 “(B) Engaging in a course of conduct or  
13 repeatedly committing acts toward another per-  
14 son, including following the person without  
15 proper authority, under circumstances that  
16 place the person in reasonable fear of bodily in-  
17 jury or physical harm.

18 “(C) Subjecting another person to false  
19 imprisonment.

20 “(D) Attempting to cause or cause damage  
21 to property so as to intimidate or attempt to  
22 control the behavior of another person.

23 “(f) CONSUMER GRIEVANCE PROCESS.—The Federal  
24 banking agencies shall jointly establish a consumer com-  
25 plaint mechanism, for receiving and expeditiously address-

1 ing consumer complaints alleging a violation of regulations  
2 issued under the section, which shall—

3 “(1) establish a group within each regulatory  
4 agency to receive such complaints;

5 “(2) develop procedures for investigating such  
6 complaints;

7 “(3) develop procedures for informing con-  
8 sumers of rights they may have in connection with  
9 such complaints; and

10 “(4) develop procedures for addressing concerns  
11 raised by such complaints, as appropriate, including  
12 procedures for the recovery of losses to the extent  
13 appropriate.

14 “(g) EFFECT ON OTHER AUTHORITY.—

15 “(1) IN GENERAL.—No provision of this section  
16 shall be construed as granting, limiting, or otherwise  
17 affecting—

18 “(A) any authority of the Securities and  
19 Exchange Commission, any self-regulatory or-  
20 ganization, the Municipal Securities Rule-  
21 making Board, or the Secretary of the Treasury  
22 under any Federal securities law; or

23 “(B) except as provided in paragraph (2),  
24 any authority of any State insurance commis-  
25 sion (or any agency or office performing like

1 functions), or of any State securities commis-  
2 sion (or any agency or office performing like  
3 functions), or other State authority under any  
4 State law.

5 “(2) COORDINATION WITH STATE LAW.—

6 “(A) IN GENERAL.—Except as provided in  
7 subparagraph (B), insurance customer protec-  
8 tion regulations prescribed by a Federal bank-  
9 ing agency under this section shall not apply to  
10 retail sales, solicitations, advertising, or offers  
11 of any insurance product by any insured deposi-  
12 tory institution or to any person who is engaged  
13 in such activities at an office of such institution  
14 or on behalf of the institution, in a State where  
15 the State has in effect statutes, regulations, or-  
16 ders, or interpretations, that are inconsistent  
17 with or contrary to the regulations prescribed  
18 by the Federal banking agencies.

19 “(B) PREEMPTION.—

20 “(i) IN GENERAL.—If, with respect to  
21 any provision of the regulations prescribed  
22 under this section, the Board of Governors  
23 of the Federal Reserve System, the Comp-  
24 troller of the Currency, and the Board of  
25 Directors of the Corporation determine

1 jointly that the protection afforded by such  
2 provision for customers is greater than the  
3 protection provided by a comparable provi-  
4 sion of the statutes, regulations, orders, or  
5 interpretations referred to in subparagraph  
6 (A) of any State, the appropriate State  
7 regulatory authority shall be notified of  
8 such determination in writing.

9 “(ii) CONSIDERATIONS.—Before mak-  
10 ing a final determination under clause (i),  
11 the Federal agencies referred to in clause  
12 (i) shall give appropriate consideration to  
13 comments submitted by the appropriate  
14 State regulatory authorities relating to the  
15 level of protection afforded to consumers  
16 under State law.

17 “(iii) FEDERAL PREEMPTION AND  
18 ABILITY OF STATES TO OVERRIDE FED-  
19 ERAL PREEMPTION.—If the Federal agen-  
20 cies referred to in clause (i) jointly deter-  
21 mine that any provision of the regulations  
22 prescribed under this section affords great-  
23 er protections than a comparable State  
24 law, rule, regulation, order, or interpreta-  
25 tion, those agencies shall send a written

1           preemption notice to the appropriate State  
2           regulatory authority to notify the State  
3           that the Federal provision will preempt the  
4           State provision and will become applicable  
5           unless, not later than 3 years after the  
6           date of such notice, the State adopts legis-  
7           lation to override such preemption.

8           “(h) NON-DISCRIMINATION AGAINST NON-AFFILI-  
9   ATED AGENTS.—The Federal banking agencies shall en-  
10   sure that the regulations prescribed pursuant to sub-  
11   section (a) shall not have the practical effect of discrimi-  
12   nating, either intentionally or unintentionally, against any  
13   person engaged in insurance sales or solicitations that is  
14   not affiliated with an insured depository institution.”.

15   **SEC. 306. CERTAIN STATE AFFILIATION LAWS PREEMPTED**  
16                   **FOR INSURANCE COMPANIES AND AFFILI-**  
17                   **ATES.**

18           Except as provided in section 104(a)(2), no State  
19   may, by law, regulation, order, interpretation, or  
20   otherwise—

21           (1) prevent or significantly interfere with the  
22   ability of any insurer, or any affiliate of an insurer  
23   (whether such affiliate is organized as a stock com-  
24   pany, mutual holding company, or otherwise), to be-

1       come a financial holding company or to acquire con-  
2       trol of an insured depository institution;

3           (2) limit the amount of an insurer's assets that  
4       may be invested in the voting securities of an in-  
5       sured depository institution (or any company which  
6       controls such institution), except that the laws of an  
7       insurer's State of domicile may limit the amount of  
8       such investment to an amount that is not less than  
9       5 percent of the insurer's admitted assets; or

10          (3) prevent, significantly interfere with, or have  
11       the authority to review, approve, or disapprove a  
12       plan of reorganization by which an insurer proposes  
13       to reorganize from mutual form to become a stock  
14       insurer (whether as a direct or indirect subsidiary of  
15       a mutual holding company or otherwise) unless such  
16       State is the State of domicile of the insurer.

17   **SEC. 307. INTERAGENCY CONSULTATION.**

18       (a) PURPOSE.—It is the intention of the Congress  
19       that the Board of Governors of the Federal Reserve Sys-  
20       tem, as the umbrella supervisor for financial holding com-  
21       panies, and the State insurance regulators, as the func-  
22       tional regulators of companies engaged in insurance activi-  
23       ties, coordinate efforts to supervise companies that control  
24       both a depository institution and a company engaged in  
25       insurance activities regulated under State law. In par-

1 ticular, Congress believes that the Board and the State  
2 insurance regulators should share, on a confidential basis,  
3 information relevant to the supervision of companies that  
4 control both a depository institution and a company en-  
5 gaged in insurance activities, including information re-  
6 garding the financial health of the consolidated organiza-  
7 tion and information regarding transactions and relation-  
8 ships between insurance companies and affiliated deposi-  
9 tory institutions. The appropriate Federal banking agen-  
10 cies for depository institutions should also share, on a con-  
11 fidential basis, information with the relevant State insur-  
12 ance regulators regarding transactions and relationships  
13 between depository institutions and affiliated companies  
14 engaged in insurance activities. The purpose of this sec-  
15 tion is to encourage this coordination and confidential  
16 sharing of information, and to thereby improve both the  
17 efficiency and the quality of the supervision of financial  
18 holding companies and their affiliated depository institu-  
19 tions and companies engaged in insurance activities.

20 (b) EXAMINATION RESULTS AND OTHER INFORMA-  
21 TION.—

22 (1) INFORMATION OF THE BOARD.—Upon the  
23 request of the appropriate insurance regulator of  
24 any State, the Board may provide any information  
25 of the Board regarding the financial condition, risk

1 management policies, and operations of any financial  
2 holding company that controls a company that is en-  
3 gaged in insurance activities and is regulated by  
4 such State insurance regulator, and regarding any  
5 transaction or relationship between such an insur-  
6 ance company and any affiliated depository institu-  
7 tion. The Board may provide any other information  
8 to the appropriate State insurance regulator that the  
9 Board believes is necessary or appropriate to permit  
10 the State insurance regulator to administer and en-  
11 force applicable State insurance laws.

12 (2) BANKING AGENCY INFORMATION.—Upon  
13 the request of the appropriate insurance regulator of  
14 any State, the appropriate Federal banking agency  
15 may provide any information of the agency regard-  
16 ing any transaction or relationship between a deposi-  
17 tory institution supervised by such Federal banking  
18 agency and any affiliated company that is engaged  
19 in insurance activities regulated by such State insur-  
20 ance regulator. The appropriate Federal banking  
21 agency may provide any other information to the ap-  
22 propriate State insurance regulator that the agency  
23 believes is necessary or appropriate to permit the  
24 State insurance regulator to administer and enforce  
25 applicable State insurance laws.



1           (3) STATE INSURANCE REGULATOR INFORMA-  
2           TION.—Upon the request of the Board or the appro-  
3           priate Federal banking agency, a State insurance  
4           regulator may provide any examination or other re-  
5           ports, records, or other information to which such  
6           insurance regulator may have access with respect to  
7           a company which—

8                   (A) is engaged in insurance activities and  
9                   regulated by such insurance regulator; and

10                   (B) is an affiliate of an insured depository  
11                   institution or financial holding company.

12           (c) CONSULTATION.—Before making any determina-  
13           tion relating to the initial affiliation of, or the continuing  
14           affiliation of, an insured depository institution or financial  
15           holding company with a company engaged in insurance ac-  
16           tivities, the appropriate Federal banking agency shall con-  
17           sult with the appropriate State insurance regulator of such  
18           company and take the views of such insurance regulator  
19           into account in making such determination.

20           (d) EFFECT ON OTHER AUTHORITY.—Nothing in  
21           this section shall limit in any respect the authority of the  
22           appropriate Federal banking agency with respect to an in-  
23           sured depository institution or bank holding company or  
24           any affiliate thereof under any provision of law.

25           (e) CONFIDENTIALITY AND PRIVILEGE.—

1           (1) CONFIDENTIALITY.—The appropriate Fed-  
2       eral banking agency shall not provide any informa-  
3       tion or material that is entitled to confidential treat-  
4       ment under applicable Federal banking agency regu-  
5       lations, or other applicable law, to a State insurance  
6       regulator unless such regulator agrees to maintain  
7       the information or material in confidence and to  
8       take all reasonable steps to oppose any effort to se-  
9       cure disclosure of the information or material by the  
10      regulator. The appropriate Federal banking agency  
11      shall treat as confidential any information or mate-  
12      rial obtained from a State insurance regulator that  
13      is entitled to confidential treatment under applicable  
14      State regulations, or other applicable law, and take  
15      all reasonable steps to oppose any effort to secure  
16      disclosure of the information or material by the Fed-  
17      eral banking agency.

18           (2) PRIVILEGE.—The provision pursuant to this  
19      section of information or material by a Federal  
20      banking agency or State insurance regulator shall  
21      not constitute a waiver of, or otherwise affect, any  
22      privilege to which the information or material is oth-  
23      erwise subject.

24           (f) DEFINITIONS.—For purposes of this section, the  
25      following definitions shall apply:

1           (1) APPROPRIATE FEDERAL BANKING AGENCY;  
2       INSURED DEPOSITORY INSTITUTION.—The terms  
3       “appropriate Federal banking agency” and “insured  
4       depository institution” have the same meanings as  
5       in section 3 of the Federal Deposit Insurance Act.

6           (2) BOARD AND FINANCIAL HOLDING COM-  
7       PANY.—The terms “Board” and “financial holding  
8       company” have the same meanings as in section 2  
9       of the Bank Holding Company Act of 1956.

10 **SEC. 308. DEFINITION OF STATE.**

11       For purposes of this subtitle, the term “State” means  
12 any State of the United States, the District of Columbia,  
13 any territory of the United States, Puerto Rico, Guam,  
14 American Samoa, the Trust Territory of the Pacific Is-  
15 lands, the Virgin Islands, and the Northern Mariana Is-  
16 lands.

17       **Subtitle B—Redomestication of**  
18       **Mutual Insurers**

19 **SEC. 311. GENERAL APPLICATION.**

20       This subtitle shall only apply to a mutual insurance  
21 company in a State which has not enacted a law which  
22 expressly establishes reasonable terms and conditions for  
23 a mutual insurance company domiciled in such State to  
24 reorganize into a mutual holding company.

1   **SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.**

2           (a) REDOMESTICATION.—A mutual insurer organized  
3 under the laws of any State may transfer its domicile to  
4 a transferee domicile as a step in a reorganization in  
5 which, pursuant to the laws of the transferee domicile and  
6 consistent with the standards in subsection (f), the mutual  
7 insurer becomes a stock insurer that is a direct or indirect  
8 subsidiary of a mutual holding company.

9           (b) RESULTING DOMICILE.—Upon complying with  
10 the applicable law of the transferee domicile governing  
11 transfers of domicile and completion of a transfer pursu-  
12 ant to this section, the mutual insurer shall cease to be  
13 a domestic insurer in the transferor domicile and, as a  
14 continuation of its corporate existence, shall be a domestic  
15 insurer of the transferee domicile.

16          (c) LICENSES PRESERVED.—The certificate of au-  
17 thority, agents' appointments and licenses, rates, approv-  
18 als and other items that a licensed State allows and that  
19 are in existence immediately prior to the date that a re-  
20 domesticating insurer transfers its domicile pursuant to  
21 this subtitle shall continue in full force and effect upon  
22 transfer, if the insurer remains duly qualified to transact  
23 the business of insurance in such licensed State.

24          (d) EFFECTIVENESS OF OUTSTANDING POLICIES  
25 AND CONTRACTS.—

1           (1) IN GENERAL.—All outstanding insurance  
2       policies and annuities contracts of a redomesticating  
3       insurer shall remain in full force and effect and need  
4       not be endorsed as to the new domicile of the in-  
5       surer, unless so ordered by the State insurance regu-  
6       lator of a licensed State, and then only in the case  
7       of outstanding policies and contracts whose owners  
8       reside in such licensed State.

9           (2) FORMS.—

10           (A) Applicable State law may require a re-  
11       domesticating insurer to file new policy forms  
12       with the State insurance regulator of a licensed  
13       State on or before the effective date of the  
14       transfer.

15           (B) Notwithstanding subparagraph (A), a  
16       redomesticating insurer may use existing policy  
17       forms with appropriate endorsements to reflect  
18       the new domicile of the redomesticating insurer  
19       until the new policy forms are approved for use  
20       by the State insurance regulator of such li-  
21       censed State.

22       (e) NOTICE.—A redomesticating insurer shall give  
23       notice of the proposed transfer to the State insurance reg-  
24       ulator of each licensed State and shall file promptly any  
25       resulting amendments to corporate documents required to

1 be filed by a foreign licensed mutual insurer with the in-  
2 surance regulator of each such licensed State.

3 (f) PROCEDURAL REQUIREMENTS.—No mutual in-  
4 surer may redomesticate to another State and reorganize  
5 into a mutual holding company pursuant to this section  
6 unless the State insurance regulator of the transferee  
7 domicile determines that the plan of reorganization of the  
8 insurer includes the following requirements:

9 (1) APPROVAL BY BOARD OF DIRECTORS AND  
10 POLICYHOLDERS.—The reorganization is approved  
11 by at least a majority of the board of directors of  
12 the mutual insurer and at least a majority of the  
13 policyholders who vote after notice, disclosure of the  
14 reorganization and the effects of the transaction on  
15 policyholder contractual rights, and reasonable op-  
16 portunity to vote, in accordance with such notice,  
17 disclosure, and voting procedures as are approved by  
18 the State insurance regulator of the transferee domi-  
19 cile.

20 (2) CONTINUED VOTING CONTROL BY POLICY-  
21 HOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—  
22 After the consummation of a reorganization, the pol-  
23 icyholders of the reorganized insurer shall have the  
24 same voting rights with respect to the mutual hold-  
25 ing company as they had before the reorganization

1 with respect to the mutual insurer. With respect to  
2 an initial public offering of stock, the offering shall  
3 be conducted in compliance with applicable securities  
4 laws and in a manner approved by the State insur-  
5 ance regulator of the transferee domicile.

6 (3) AWARD OF STOCK OR GRANT OF OPTIONS  
7 TO OFFICERS AND DIRECTORS.—During the applica-  
8 ble period provided for under the State law of the  
9 transferee domicile following completion of an initial  
10 public offering, or for a period of six months if no  
11 such applicable period is provided, neither a stock  
12 holding company nor the converted insurer shall  
13 award any stock options or stock grants to persons  
14 who are elected officers or directors of the mutual  
15 holding company, the stock holding company, or the  
16 converted insurer, except with respect to any such  
17 awards or options to which a person is entitled as  
18 a policyholder and as approved by the State insur-  
19 ance regulator of the transferee domicile.

20 (4) POLICYHOLDER RIGHTS.—Upon reorganiza-  
21 tion into a mutual holding company, the contractual  
22 rights of the policyholders are preserved.

23 (5) FAIR AND EQUITABLE TREATMENT OF POL-  
24 ICYHOLDERS.—The reorganization is approved as

1 fair and equitable to the policyholders by the insur-  
2 ance regulator of the transferee domicile.

3 **SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMES-**  
4 **TICATION.**

5 (a) IN GENERAL.—Unless otherwise permitted by  
6 this subtitle, State laws of any transferor domicile that  
7 conflict with the purposes and intent of this subtitle are  
8 preempted, including but not limited to—

9 (1) any law that has the purpose or effect of  
10 impeding the activities of, taking any action against,  
11 or applying any provision of law or regulation to,  
12 any insurer or an affiliate of such insurer because  
13 that insurer or any affiliate plans to redomesticate,  
14 or has redomesticated, pursuant to this subtitle;

15 (2) any law that has the purpose or effect of  
16 impeding the activities of, taking action against, or  
17 applying any provision of law or regulation to, any  
18 insured or any insurance licensee or other inter-  
19 mediary because such person has procured insurance  
20 from or placed insurance with any insurer or affil-  
21 iate of such insurer that plans to redomesticate, or  
22 has redomesticated, pursuant to this subtitle, but  
23 only to the extent that such law would treat such in-  
24 sured licensee or other intermediary differently than  
25 if the person procured insurance from, or placed in-



1       surance with, an insured licensee or other inter-  
2       mediary which had not redomesticated;

3           (3) any law that has the purpose or effect of  
4       terminating, because of the redomestication of a mu-  
5       tual insurer pursuant to this subtitle, any certificate  
6       of authority, agent appointment or license, rate ap-  
7       proval, or other approval, of any State insurance  
8       regulator or other State authority in existence imme-  
9       diately prior to the redomestication in any State  
10      other than the transferee domicile.

11      (b) DIFFERENTIAL TREATMENT PROHIBITED.—No  
12      State law, regulation, interpretation, or functional equiva-  
13      lent thereof, of a State other than a transferee domicile  
14      may treat a redomesticating or redomesticated insurer or  
15      any affiliate thereof any differently than an insurer oper-  
16      ating in that State that is not a redomesticating or re-  
17      domesticated insurer.

18      (c) LAWS PROHIBITING OPERATIONS.—If any li-  
19      censed State fails to issue, delays the issuance of, or seeks  
20      to revoke an original or renewal certificate of authority  
21      of a redomesticated insurer immediately following re-  
22      domestication, except on grounds and in a manner con-  
23      sistent with its past practices regarding the issuance of  
24      certificates of authority to foreign insurers that are not  
25      redomesticating, then the redomesticating insurer shall be

1 exempt from any State law of the licensed State to the  
2 extent that such State law or the operation of such State  
3 law would make unlawful, or regulate, directly or indi-  
4 rectly, the operation of the redomesticated insurer, except  
5 that such licensed State may require the redomesticated  
6 insurer to—

7           (1) comply with the unfair claim settlement  
8 practices law of the licensed State;

9           (2) pay, on a nondiscriminatory basis, applica-  
10 ble premium and other taxes which are levied on li-  
11 censed insurers or policyholders under the laws of  
12 the licensed State;

13           (3) register with and designate the State insur-  
14 ance regulator as its agent solely for the purpose of  
15 receiving service of legal documents or process;

16           (4) submit to an examination by the State in-  
17 surance regulator in any licensed state in which the  
18 redomesticated insurer is doing business to deter-  
19 mine the insurer's financial condition, if—

20                (A) the State insurance regulator of the  
21 transferee domicile has not begun an examina-  
22 tion of the redomesticated insurer and has not  
23 scheduled such an examination to begin before  
24 the end of the 1-year period beginning on the  
25 date of the redomestication; and

1 (B) any such examination is coordinated to  
2 avoid unjustified duplication and repetition;

3 (5) comply with a lawful order issued in—

4 (A) a delinquency proceeding commenced  
5 by the State insurance regulator of any licensed  
6 State if there has been a judicial finding of fi-  
7 nancial impairment under paragraph (7); or

8 (B) a voluntary dissolution proceeding;

9 (6) comply with any State law regarding decep-  
10 tive, false, or fraudulent acts or practices, except  
11 that if the licensed State seeks an injunction regard-  
12 ing the conduct described in this paragraph, such in-  
13 junction must be obtained from a court of competent  
14 jurisdiction as provided in section 314(a);

15 (7) comply with an injunction issued by a court  
16 of competent jurisdiction, upon a petition by the  
17 State insurance regulator alleging that the redomes-  
18 ticating insurer is in hazardous financial condition  
19 or is financially impaired;

20 (8) participate in any insurance insolvency  
21 guaranty association on the same basis as any other  
22 insurer licensed in the licensed State; and

23 (9) require a person acting, or offering to act,  
24 as an insurance licensee for a redomesticated insurer  
25 in the licensed State to obtain a license from that

1 State, except that such State may not impose any  
2 qualification or requirement that discriminates  
3 against a nonresident insurance licensee.

4 **SEC. 314. OTHER PROVISIONS.**

5 (a) JUDICIAL REVIEW.—The appropriate United  
6 States district court shall have exclusive jurisdiction over  
7 litigation arising under this section involving any redomes-  
8 ticating or redomesticated insurer.

9 (b) SEVERABILITY.—If any provision of this section,  
10 or the application thereof to any person or circumstances,  
11 is held invalid, the remainder of the section, and the appli-  
12 cation of such provision to other persons or circumstances,  
13 shall not be affected thereby.

14 **SEC. 315. DEFINITIONS.**

15 For purposes of this subtitle, the following definitions  
16 shall apply:

17 (1) COURT OF COMPETENT JURISDICTION.—  
18 The term “court of competent jurisdiction” means a  
19 court authorized pursuant to section 314(a) to adju-  
20 dicate litigation arising under this subtitle.

21 (2) DOMICILE.—The term “domicile” means  
22 the State in which an insurer is incorporated, char-  
23 tered, or organized.

24 (3) INSURANCE LICENSEE.—The term “insur-  
25 ance licensee” means any person holding a license

1 under State law to act as insurance agent, subagent,  
2 broker, or consultant.

3 (4) INSTITUTION.—The term “institution”  
4 means a corporation, joint stock company, limited li-  
5 ability company, limited liability partnership, asso-  
6 ciation, trust, partnership, or any similar entity.

7 (5) LICENSED STATE.—The term “licensed  
8 State” means any State, the District of Columbia,  
9 any territory of the United States, Puerto Rico,  
10 Guam, American Samoa, the Trust Territory of the  
11 Pacific Islands, the Virgin Islands, and the Northern  
12 Mariana Islands in which the redomesticating in-  
13 surer has a certificate of authority in effect imme-  
14 diately prior to the redomestication.

15 (6) MUTUAL INSURER.—The term “mutual in-  
16 surer” means a mutual insurer organized under the  
17 laws of any State.

18 (7) PERSON.—The term “person” means an in-  
19 dividual, institution, government or governmental  
20 agency, State or political subdivision of a State, pub-  
21 lic corporation, board, association, estate, trustee, or  
22 fiduciary, or other similar entity.

23 (8) POLICYHOLDER.—The term “policyholder”  
24 means the owner of a policy issued by a mutual in-  
25 surer, except that, with respect to voting rights, the

1 term means a member of a mutual insurer or mu-  
2 tual holding company granted the right to vote, as  
3 determined under applicable State law.

4 (9) REDOMESTICATED INSURER.—The term  
5 “redomesticated insurer” means a mutual insurer  
6 that has redomesticated pursuant to this subtitle.

7 (10) REDOMESTICATING INSURER.—The term  
8 “redomesticating insurer” means a mutual insurer  
9 that is redomesticating pursuant to this subtitle.

10 (11) REDOMESTICATION OR TRANSFER.—The  
11 terms “redomestication” and “transfer” mean the  
12 transfer of the domicile of a mutual insurer from  
13 one State to another State pursuant to this subtitle.

14 (12) STATE INSURANCE REGULATOR.—The  
15 term “State insurance regulator” means the prin-  
16 cipal insurance regulatory authority of a State, the  
17 District of Columbia, any territory of the United  
18 States, Puerto Rico, Guam, American Samoa, the  
19 Trust Territory of the Pacific Islands, the Virgin Is-  
20 lands, and the Northern Mariana Islands.

21 (13) STATE LAW.—The term “State law”  
22 means the statutes of any State, the District of Co-  
23 lumbia, any territory of the United States, Puerto  
24 Rico, Guam, American Samoa, the Trust Territory  
25 of the Pacific Islands, the Virgin Islands, and the

1 Northern Mariana Islands and any regulation, order,  
2 or requirement prescribed pursuant to any such statute.  
3

4 (14) TRANSFEREE DOMICILE.—The term  
5 “transferee domicile” means the State to which a  
6 mutual insurer is redomesticating pursuant to this  
7 subtitle.

8 (15) TRANSFEROR DOMICILE.—The term  
9 “transferor domicile” means the State from which a  
10 mutual insurer is redomesticating pursuant to this  
11 subtitle.

12 **SEC. 316. EFFECTIVE DATE.**

13 This subtitle shall take effect on the date of the enactment of this Act.

15 **[Subtitle C—To Be Resolved by**  
16 **Conference Committee]**

17 **SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING**  
18 **REFORMS.**

19 (a) IN GENERAL.—The provisions of this subtitle  
20 shall take effect unless, not later than 3 years after the  
21 date of the enactment of this Act, at least a majority of  
22 the States—

23 (1) have enacted uniform laws and regulations  
24 governing the licensure of individuals and entities

1 authorized to sell and solicit the purchase of insur-  
2 ance within the State; or

3 (2) have enacted reciprocity laws and regula-  
4 tions governing the licensure of nonresident individ-  
5 uals and entities authorized to sell and solicit insur-  
6 ance within those States.

7 (b) UNIFORMITY REQUIRED.—States shall be deemed  
8 to have established the uniformity necessary to satisfy  
9 subsection (a)(1) if the States—

10 (1) establish uniform criteria regarding the in-  
11 tegrity, personal qualifications, education, training,  
12 and experience of licensed insurance producers, in-  
13 cluding the qualification and training of sales per-  
14 sonnel in ascertaining the appropriateness of a par-  
15 ticular insurance product for a prospective customer;

16 (2) establish uniform continuing education re-  
17 quirements for licensed insurance producers;

18 (3) establish uniform ethics course require-  
19 ments for licensed insurance producers in conjunc-  
20 tion with the continuing education requirements  
21 under paragraph (2);

22 (4) establish uniform criteria to ensure that an  
23 insurance product, including any annuity contract,  
24 sold to a consumer is suitable and appropriate for



1       the consumer based on financial information dis-  
2       closed by the consumer; and

3           (5) do not impose any requirement upon any in-  
4       surance producer to be licensed or otherwise quali-  
5       fied to do business as a nonresident that has the ef-  
6       fect of limiting or conditioning that producer's ac-  
7       tivities because of its residence or place of oper-  
8       ations, except that counter-signature requirements  
9       imposed on nonresident producers shall not be  
10      deemed to have the effect of limiting or conditioning  
11      a producer's activities because of its residence or  
12      place of operations under this section.